

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, NOVEMBER 13, 2000 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Shoecraft; Council Members: Camp, Cook, Fortenberry, McRoy, Seng, Joan Ross, Deputy City Clerk; Absent: Johnson.

The Council stood for a moment of silent meditation.

**READING OF THE MINUTES**

FORTENBERRY Having been appointed to read the minutes of the City Council proceedings of Nov. 6, 2000, reported having done so, found same correct.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy. Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

**PUBLIC HEARING**

APP. OF MIP TWO, INC. DBA "MICKEY'S IRISH PUB" FOR A CLASS "I" LIQUOR LICENSE AT 1409 "O" STREET;

MAN. APP. OF JOHN M. SELTZER FOR MIP TWO, INC. DBA "MICKEY'S IRISH PUB" AT 1409 "O" STREET - John Selzer, 100 N. 12th St, #902 and Daniel Clause, 1201 Lincoln Mall, Ste. 102, took oath & came forward to answer any questions.  
This matter was taken under advisement.

APP. OF O'FOURTEEN, INC. DBA "WOODY'S PUB" FOR A LIQUOR CATERING LICENSE AT 101 NORTH 14TH STREET, #6 - Brian Lindeman, 101 N. 14th St., Ste. 6, came forward to answer any questions.

This matter was taken under advisement.

APP. OF PEARL'S, INC. DBA "PEARL'S CAFÉ" FOR A CLASS "I" LIQUOR LICENSE AT 311 NORTH 8TH STREET;

MAN. APP. OF JEFFERY DEAN AULD FOR PEARL'S, INC. DBA "PEARL'S CAFÉ" AT 311 NORTH 8TH STREET - Jeff Auld, 311 N. 8th St., took oath & came forward to answer any questions.

This matter was taken under advisement.

AMENDING TITLE 5 OF THE LMC BY ADDING A NEW CHAPTER 5.17 PERTAINING TO TELECOMMUNICATIONS PROVIDERS USING THE CITY'S RIGHTS-OF-WAY TO ESTABLISH DEFINITIONS, STANDARDS, & PERMIT FEES FOR THE USE OF RIGHTS-OF-WAY; TO PROVIDE FOR INSURANCE, BONDING, & CONSTRUCTION STANDARDS FOR TELECOMMUNICATIONS FACILITIES LOCATED IN RIGHTS-OF-WAY; TO ESTABLISH PROCEDURES FOR REVIEWS OF DECISIONS REGARDING TELECOMMUNICATIONS FACILITIES; & TO PROVIDE FOR ENFORCEMENT OF THIS ORDINANCE - Steve Huggenberger, City Attorney: I'm appearing, Mr. Camp, because of the questions you had last week and in reviewing the cases that Mr. Paul Shuttle cited last week, I didn't recognize them at the time he cited them because I've never had a conversation with Mr. Shuttle about any of these cases. These are old cases. We've reviewed these cases before. I don't think they raise any new issues or issues that we haven't discussed before. They certainly don't represent any provisions that we're considering related to the underground requirement. They simply indicate that a city must have reasonable regulations in its right-of-way and in its and applying to the use of right-of-way and that's virtually all it says about the provisions. So, I don't have any further comment than that. We don't, we think we're in compliance with what these court cases indicate.

Jon Camp, Council Member: And, I appreciate your doing this, Steve,. My concern was that we not open the City to some liability flood gate.

Mr. Huggenberger: And, I might add even if I had an argument about those cases it's my understanding, and again today talking with Alltel, Amendment No. 7 represents a settlement of the issues and the arguments that we have. We're not pressing any further arguments and my understanding is they're not either because we're going to live with what Amendment 7 suggests.

Mr. Camp: Thank you for all your work.

Bill Austin, 301 S. 13th St.: I'm here appearing on behalf of the Lincoln Electric System solely in relation to what I think has been designated as Amendment No. 8. That is the one would provide an exception to City utilities and departments from those provisions relating to the posting or depositing of performance or financial guarantees or the

maintenance of insurance. The Lincoln Electric System had requested that amendment to the ordinance and I'm really here just to answer any questions that you may have. I have only a couple of comments as to why we felt that an amendment such as that would be appropriate, first and so far as the posting of bonds as contemplated by the ordinance are concerned I have serious doubts as to whether the City could be both the principal and the obligee on a bond at the same time so it really doesn't make sense to ask the Lincoln Electric System which really is part and parcel of the City of Lincoln itself for a bond. Similarly, with those provisions that relate to the posting of the \$50,000 deposit for work performed in the right-of-way and such things. Again, it doesn't make sense to ask yourself to post money because once again it (inaudible) that the budgetary ultimate authority for the Lincoln Electric System so you would hope that those matters will be taken care of and there's really no need to have LES funds set aside for that purpose. It just doesn't seem appropriate. As for the insurance provisions we don't think that the insurance provisions would pertain to LES or should pertain to them. I would point out that there are a number of provisions included within the insurance requirements in this ordinance which actually look like those sort of insurance provisions that you would require of the contractor who is acting as your agent or someone who is doing work on your behalf. So far as his provisions relating to automobile insurance and workers compensation insurance really doesn't make much sense to ask LES or perhaps or any of the other utilities, for that matter, or those sorts of, those sorts of insurance requirements. To point that that would be something of a problem to Lincoln Electric System because they are self-insured as far as workers compensation is concerned certainly up to an excess amount. And, so also, I believe they are self-insured. They have a very high self-insured retention for automobile insurance and public liability insurance itself as does the City of Lincoln. And, again these are the types of provisions that you require of someone who you are uncertain as to whether they will be able to make payment or meet their obligations and here you have control of it yourself. So, that's the reason why we asked for that exception. We weren't really looking for any, you know, really special treatment that we're asking for treatment that makes sense under the circumstances. So I'd be happy to answer any questions that you might have. But, that was, that's the only reason for my appearing on it.

Mr. Camp: Bill, I guess the only question that I would have in addition to those that you addressed and anticipated is why would we expect more of a private entity than we would of ourselves?

Mr. Austin: Well, I think that to some extent that you are doing that for the purpose of assuring the public that you have provided for sufficient funds for the performance of various acts and I think when it is you yourself that is performing those acts you know that, that those requirements will be fulfilled. I say that in particularly in relation to the insurance requirements. As for the bond I really don't think that the City could bond itself. I think that ones really a problem that it's, it's almost unable to perform. For the same purpose if you want to know the funds are there you know what the amount of funds are that Lincoln Electric System has in the bank right now and doesn't really make sense to say that they're going to have to put over a special amount of funds set aside for that purpose when you have control of those right now.

Mr. Camp: Would there be a way, and you mentioned that the purpose of these is basically to assure performance where you have certain entities that have had a track record, is there some objective way that we could also exempt them from those so that we're trying to really address the concerns and that is those entities that may not have had a proven performance?

Mr. Austin: I think that you could probably, and I guess I kind of look to Steve Huggenberger a little bit, because so far as Lincoln Electric System is concerned if you exempted everyone from the insurance provisions it does not bother us. From my own perspective I would say to you that any of the entities that you are working with and now requiring this insurance are those which have been in and occupied the right-of-way in some instances for perhaps a 100 years and you haven't had insurance for it. So, why you now have a compelling need to have insurance on, I guess, you know, you've probably discussed that among yourselves, but alternatively you could, you could provide for some alternative by way of assuring that they have adequate funds of self-insurance, met their financial responsibility in some fashion other than straight insurance. Yes. I think you could do it. Bonds I would understand why you would want that, I mean, I think that the bonding to insure future performance, but again, in the context of LES it doesn't make sense because you're trying

to bond yourself.

This matter was taken under advisement.

APPROVING AN EXTENSION OF THE CONTRACT FOR THE OPERATION OF A KENO TYPE LOTTERY BETWEEN THE CITY OF LINCOLN & LINCOLN'S BIG RED LOTTERY SERVICES LTD. - John Hewitt, Big Red Keno and Bill Harvey, General Council for Big Red Keno, 11248 John Galt Blvd., Omaha, NE: We're happy to answer any questions you might have today regarding this application.

This matter was taken under advisement.

#### ORDINANCES - 3RD READING

AMENDING TITLE 5 OF THE LMC BY ADDING A NEW CHAPTER 5.17 PERTAINING TO TELECOMMUNICATIONS PROVIDERS USING THE CITY'S RIGHTS-OF-WAY TO ESTABLISH DEFINITIONS, STANDARDS, & PERMIT FEES FOR THE USE OF RIGHTS-OF-WAY; TO PROVIDE FOR INSURANCE, BONDING, & CONSTRUCTION STANDARDS FOR TELECOMMUNICATIONS FACILITIES LOCATED IN RIGHTS-OF-WAY; TO ESTABLISH PROCEDURES FOR REVIEWS OF DECISIONS REGARDING TELECOMMUNICATIONS FACILITIES; & TO PROVIDE FOR ENFORCEMENT OF THIS ORDINANCE - PRIOR to reading:

SENG Moved to amend Bill 00-100 (**Amendment No. 1**) in the following manner:

1. On page 2, strike lines 22 through 24, & insert in lieu thereof the following revised definition of "grantee": Grantee shall mean a permittee or registrant who has been granted certain rights and has had certain obligations imposed upon them pursuant to this chapter.

2. On page 4, between lines 21 & 22, insert the following definition for the word "utility": Utility shall mean those entities which provide electric, water, wastewater, and natural gas service.

3. On page 4, line 25, delete the words "or Telecommunications".

4. On page 6, after line 6, add the following sentence to Section 5.17.060: Nothing in this chapter shall be construed to authorize the placement of any personal wireless facilities or towers within the right-of-way.

5. On page 9, line 23, insert after the word "City" at the end of the first sentence of the section, the following language: "or, alternatively at the City's option, the operator may transfer the ownership of the property to the City".

6. On page 13, line 22 to strike the phrase: ",as a condition of the grant,".

7. On page 15, line 9, strike the word "is" and insert in lieu thereof the following phrase: "or before a registration required by this chapter becomes".

#### (Amendment No. 7)

1. On page 10, lines 21 through 27, strike the amended Section, and substitute a new Code Section 5.17.190 as follows:

##### **5.17.190 Underground Relocation.**

(a) Whenever one or more telecommunications or cable television providers have established facilities located on poles to which overhead electric distribution or transmission facilities are also attached, and such electric facilities are relocated underground at a particular location, all such providers shall convert existing pole located facilities at such location to underground at the same time.

When the funding for the costs of undergrounding City-owned overhead electric distribution or transmission facilities comes from non-governmental sources, such funding shall be used to proportionately offset the costs of all providers.

(b) Whenever two or more telecommunications providers or cable television providers have established facilities located on poles on which there are no electric distribution or transmission facilities and one provider determines to relocate underground at a particular location, all such providers shall convert all existing pole located facilities at such location to underground at the same time.

(c) A grantee or provider shall not be required to relocate, change, or alter their facilities pursuant to subsection (a) unless the relocation activity of the electric distribution or transmission provider:

(i) Is listed on one of annual filings or annual reports made pursuant to Section 5.17.320; and

(ii) Allows the placement of the telecommunication or cable television providers facilities in the same trench or boring of the electric provider.

(d) If a grantee or provider is required to relocate, change or alter their facilities hereunder and fails to do so, the City may cause such to occur and, to the extent permitted by law, charge the provider for the costs incurred.

**(Amendment No. 8)**

I hereby move to amend Bill No. 00-100 by deleting the period at the end of line 28, page 6, inserting a comma in lieu thereof, and adding the following:

except those provisions relating to the posting or depositing of performance or financial guarantees, or the maintenance of insurance.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

**\*\*\* VERBATIM TRANSCRIPT OF VOTING SESSION FOR ORDINANCE NO. 17759 \*\*\***

Jerry Shoecraft, Council Member: Steve, go through each amendment. Just a brief summary real quickly of each one because we want to handle those amendments separately.

Mr. Huggenberger: Do you want me to go through them all or just one at a time?

Mr. Shoecraft: We understand, I think, 1 through 7. I think there was one submitted, No. 8, by LES and then was there another one? Was there one submitted by Alltel?

Mr. Huggenberger: No there was not. There is amendments 1, 2, & 3 & there are amendments 7 & 8.

Mr. Shoecraft: 1, 2, & 3 & 7 & 8.

Mr. Huggenberger: 4, 5, & 6 were in negotiation and discussion amendments that I had with Alltel and Time Warner, but those never came before you.

Mr. Shoecraft: So, 1, 2, & 3 & 7 & 8?

Mr. Huggenberger: Right.

Mr. Shoecraft: Real quickly.

Mr. Huggenberger: Amendment No. 1 is just a clean up and there was no opposition to Amendment No. 1. It adds a couple definitions and deletes some wording. The most significant thing in Amendment No. 1 is it adds this sentence, "nothing in this chapter shall be construed to authorize the placement of any personal wireless facilities or towers within the right-of-way.". We wanted to make sure that that was very specific. We weren't allowing cell towers in the right-of-way pursuant to the right-of-way ordinance. Amendment No. 2 is an amendment offered by Councilman Cook and I believe it was preliminary and can probably be withdrawn in lieu of Amendment No. 7. Amendment No. 3 is the Amendment that I had referred to last week as being inadvertently passed on Oct. 23rd I believe. And, in lieu of Amendment No. 7, Amendment No. 7, or at least my suggestion to you last week was to change the language in Item No. 1 on Amendments 7 to strike the amended Section 19 and that would take care of your Amendment No. 3. Amendment No. 7 then represents the settlement between the City, Alltel, and Time Warner regarding underground placements that issue alone. And, Amendment No. 8 is LES request to be exempted from some of the financial insurance provisions of the right-of-way ordinance.

Mr. Shoecraft: So, you're saying we can withdraw 2 & 3 then or 2?

Mr. Huggenberger: I have no, well ...

Mr. Shoecraft: I think we can withdraw 2 in light of 7, Jonathan. Jonathan Cook, Council member: Oh, certainly and Amendment 1 we still need to pass today so we need to pass Amendment 1, Amendment 7 and Amendment 8 potentially.

Mr. Shoecraft: Right.

Jeff Fortenberry, Council Member: Amendment 8 you have no objection to or no concern with?

Mr. Huggenberger: I don't disagree with anything Mr. Austin said.

Mr. Camp: Steve, on No. 8 would you, my concern is just to try to keep as much as we can in equality among the private public sector, with No. 8 if we went ahead with that would you be opposed to, perhaps, in that same section of the Telecommunications Act adding something, not only would the City be exempted or accepted, whatever, but also any other entity which has maintained facilities in the right-of-way without violation of any covenants for at least 10 years or something like that so that we ..

Mr. Huggenberger: I'm not sure I would use the language covenants, but ...

Mr. Camp: Or just maintaining it 10 years. I know, I suppose, we would have done something if something had been wrong during that period.

Mr. Huggenberger: Certainly we were not concerned about Alltel and

the people that have been there a long time. My concern was, arbitrarily, letting them off the hook and newcomers treating them differently. I think we can make a basis for treating Alltel differently on some of the performance and financial securities. I was anticipating, in the discussion that I had with telecommunications providers, there was not so much objection to having the bonds and securities and insurance as there was to objecting to the levels that we were initially requesting. And, we modified the level significantly. I'm sure their preference would be not to have them at all. My concern was more the newcomers to the right-of-way. I had anticipated that we would try and work something out here in the next 6 months to a year to try and figure out how to treat them differently. We have not done that to date. As with the wireless ordinance we are planning to come back to you probably in February with some suggested amendments. An annual review of that ordinance, we're thinking of doing the same thing here. I don't have any objections to the concept that you're talking about.

Mr. Camp: Would something with the time frame would that give you a non-arbitrary type situation?

Mr. Huggenberger: I think so. I don't know how to pick a time frame, but ...

Mr. Camp: Well, I'm sure opened it, but I just again I want to give fair consideration to those who have been here and have complied.

Mr. Huggenberger: And, we're all committed to making this work, the City and Alltel. I mean we don't have a big argument here.

Mr. Cook: Concern would be to waiving both insurance and bonding requirements then for anyone who's been here 10 years?

Mr. Shoecraft: I don't think you want to go that far do you?

Mr. Huggenberger: I wasn't necessarily suggesting we would waive insurance requirements. Some of the bonding requirements may make sense. Some of the financial surety requirements may make sense. I'm not sure that I would have the same comment on the insurance regardless of Alltel's being here a long time.

Coleen Seng, Council Member: Steve, Amendment 1, 7 & 8, correct?

Mr. Huggenberger: Correct.

Mr. Shoecraft: Any further comments?

Mr. Cook: Make sure I understand Councilman Camp's interest here that was just waiving the bonding requirements then?

Mr. Camp: Well, at first, as much as possible I would like to keep the field level and so if we're, I'd like to keep it as much as possible the same between the City and private providers is my concern. And, perhaps the maintenance of insurance is something that's going to be done anyway by a private provider. I haven't consulted with them so I don't know.

Mr. Cook: Doesn't that seem unfair, though, to any future providers that might come to town that they would have to maintain this bonding and insurance or bonding depending on what you chose to waive whereas the existing provider doesn't. I'm not sure terribly comfortable with that. Waiving it for LES makes sense because LES is us and in any case I think that LES is not getting into direct competition. They may lease lines to any other provider out there whether new or existing. They're not getting into providing direct services. So, I don't see that the level playing field argument necessarily applies here between LES and Alltel. I am concerned about you saying, though that, you want some level playing there where it doesn't apply, but making an unlevel playing field between the existing provider and any new provider which a new provider would have to meet these regulations.

Mr. Camp: You raise a good point. I guess my concern is the level playing field while we're dealing with ourselves and the private sector and trying to keep that as even as possible. Perhaps what Steve Huggenberger was saying, if there is going to be a review of this during the next 6 to 12 months perhaps the thing to do is say please discuss this and come back to us with something. If that would be agreeable, I know that's our discussion here, on the record Joan, I don't want to hold this up because we've spent an enormous amount of time on this and it sounds like all parties have come to negotiated agreements, but I do like that philosophical approach that we try to be evenly in our standards what we expect of ourselves versus the private sector. So, I guess with that if that would be agreeable Steve then we could really make note that you will come back to us with that as a discussed item. I'd just pass and do anything today.

\*\*\* END OF VERBATIM TRANSCRIPT\*\*\*

DEPUTY CLERK      Read an ordinance, introduced by Jonathan Camp, an ordinance amending Title 5 of the Lincoln Municipal Code by adding a new Chapter 5.17 pertaining to telecommunications providers using the City's right-of-

way to establish definitions, standards, and permit fees for the use of right-of-way; to provide for insurance, bonding and construction standards for telecommunications facilities located in the right-of-way; to establish procedures for reviews of decisions regarding telecommunications facilities; and to provide for enforcement of this ordinance, the third time.

CAMP Moved to pass ordinance as read.  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.  
The ordinance, being numbered **#17759**, is recorded in Ordinance Book 24, Page

AMENDING ORD. 17595, PASSED JAN. 24, 2000, TO INCLUDE ADDITIONAL PROPERTIES FROM WHICH RIGHT-OF-WAY IS TO BE ACQUIRED FOR THE IMPROVEMENT OF E. O ST. FROM 52ND ST. TO WEDGEWOOD DR. - DEPUTY CLERK read an ordinance, introduced by Jonathan Cook, amending Section 2 of Ord. 17595, passed Jan. 24, 2000, by including additional properties from which right-of-way is to be acquired for the improvement of E. O St. from 52nd St. to Wedgewood Dr., & repealing Sec. 2 of Ord. 17595 as hitherto existing, the third time.

COOK Moved to pass ordinance as read.  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.  
The ordinance, being numbered **#17760**, is recorded in Ordinance Book 24, Page

CHANGE OF ZONE 3286 - APP. OF ELLIOTT AND LYNNE RUSTAD FOR A CHANGE FROM R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT N. 27TH ST. & FOLKWAYS BLVD. - DEPUTY CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, as provided by Sec. 27.05.020 of the LMC, by changing the boundaries of the districts established & shown thereon, the third time.

COOK Moved to pass ordinance as read.  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.  
The ordinance, being numbered **#17761**, is recorded in Ordinance Book 24, Page

AMENDING THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "M" BY CREATING THE CLASSIFICATION OF "PUBLIC WORKS SPECIAL PROJECT ADMINISTRATOR" - DEPUTY CLERK read an ordinance, introduced by Jonathan Cook, amending Section 5 of Ord. 17704 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "M" by creating the job classification of "Public Works Special Project Administrator", the third time.

COOK Moved to pass ordinance as read.  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.  
The ordinance, being numbered **#17762**, is recorded in Ordinance Book 24, Page

AMENDING THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "A" BY CREATING THE CLASSIFICATION OF "EMS BUSINESS MANAGER" - DEPUTY CLERK read an ordinance, introduced by Jonathan Cook, amending Section 1 of Ord. 17705 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "A" by creating the job classification of "EMS Business Manager", the third time.

COOK Moved to pass ordinance as read.  
Seconded by Seng & carried by the following vote: AYES: Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: Camp; ABSENT: Johnson.  
The ordinance, being numbered **#17763**, is recorded in Ordinance Book 24, Page\_\_\_\_

AMENDING CHAPTER 10.42 OF THE LMC RELATING TO ABANDONED VEHICLES BY AMENDING SEC. 10.42.110 TO ADD AN EXCEPTION FOR THE KEEPING OF WRECKED OR JUNKED VEHICLES LOCATED ON A FARMSTEAD AND BY AMENDING SEC. 10.42.115 TO CLARIFY THAT A HOBBYIST PERMIT ONLY COVERS THE STORAGE OF VEHICLES AND DOES NOT AUTHORIZE THE STORAGE OF MISCELLANEOUS VEHICLE PARTS OR JUNK CONTAINED IN, ON, OR NEAR THE VEHICLE AND TO LIMIT THE HOBBYIST PERMITS TO ONE RENEWAL - DEPUTY CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 10.42 of the LMC relating to Abandoned Vehicles by amending Sec. 10.42.110 to add an exception for vehicles located on the premises of a farmstead; amending Sec. 10.42.115 relating to hobbyist permits to provide that such permits shall be renewed or extended for one 180-day period only & to provide that the permit shall cover the vehicle only & not miscellaneous junk contained in, on, or near the vehicle; & repealing Sec. 10.42.115 of the LMC as hitherto existing, the third time.

COOK Moved to pass ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: Camp; ABSENT: Johnson.  
The ordinance, being numbered #17764, is recorded in Ordinance Book 24, Page

APPROVING AN EXTENSION OF THE CABLE TELEVISION FRANCHISE BETWEEN THE CITY & AOL/TIME WARNER FOR AN ADDITIONAL 60 DAYS BEYOND THE EXTENDED FRANCHISE EXPIRATION DATE OF NOV. 15, 2000 - DEPUTY CLERK Read an ordinance, introduced by Jeff Fortenberry, approving an extension of the cable television franchise between the City & AOL/Time Warner for an additional 60 days beyond the extended franchise expiration date of Nov. 15, 2000, the third time.

FORTENBERRY Moved to pass ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: Camp; ABSENT: Johnson.  
The ordinance, being numbered #17765, is recorded in Ordinance Book 24, Page

#### REPORTS TO CITY OFFICERS

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED ON OCT. 30, 2000 - DEPUTY CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-80537 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed & approved, & the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council. (Investments beginning 10/3/00)

Introduced by Annette McRoy

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNED ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED SEPTEMBER 2000 - DEPUTY CLERK read the following resolution, introduced by Jeff Fortenberry who moved its adoption:

A-80538 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended September 30, 2000, \$281,992.36 as earned from short-term investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Jeff Fortenberry

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR OCTOBER 2000 - DEPUTY CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX DUE FOR THE MONTH OF JULY, 2000: ONESTAR, PNG TELECOMM.; AUG., 2000: ONESTAR, PNG, INT'L. EXCHANGE; SEPT., 2000: ONESTAR, PNG, AS TELECOMM., IBM GLOBAL, GE CAPITAL COMM., MCLEOD USA, MCI TELECOMM. - DEPUTY CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

ACCEPTING THE REPORT OF NEW & PENDING CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF OCTOBER 16 - 31, 2000 - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-80533 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the claims listed in the attached report, marked as Exhibit "A", dated November 1, 2000, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

	<u>DENIED</u>		<u>ALLOWED</u>
Merle J. Gruber	NAS*	Judy Sinkler	\$ 150.00
Scott & Marietta Dyer	\$100.00	Jean R. Waller	536.26
Dr. Nancy A. Petta	60.00	Jack & Gladys Stinson	73,521.00

\* No Amount Specified

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Annette McRoy

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

#### OTHER RESOLUTIONS

APP. OF MIP TWO, INC. DBA "MICKEY'S IRISH PUB" FOR A CLASS "I" LIQUOR LICENSE AT 1409 "O" STREET - DEPUTY CLERK read the following resolution, introduced by John Camp, who moved its adoption for approval:

A-80527 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of MIP Two, Inc. dba "Mickey's Irish Pub" for a Class "I" liquor license at 1409 "O" Street, Lincoln, Nebraska, for the license period ending April 30, 2001, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

MAN. APP. OF JOHN M. SELTZER FOR MIP TWO, INC. DBA "MICKEY'S IRISH PUB" AT 1409 "O" STREET - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-80528 WHEREAS, MIP Two, Inc. dba "Mickey's Irish Pub" located at 1409 "O" Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that John M. Seltzer be named manager; WHEREAS, John M. Seltzer appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that John M. Seltzer be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.



APP. OF O'FOURTEEN, INC. DBA "WOODY'S PUB" FOR A LIQUOR CATERING LICENSE AT 101 NORTH 14TH STREET, #6 - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-80529 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinance, the City Council recommends that the application of O'Fourteen, Inc. dba "Woody's Pub" for the issuance of a Catering Permit to the existing liquor license, located at 101 North 14th Street, #6, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all city and state regulations.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted by the City Clerk to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

APP. OF PEARL'S, INC. DBA "PEARL'S CAFÉ" FOR A CLASS "I" LIQUOR LICENSE AT 311 NORTH 8TH STREET - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-80530 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Pearl's, Inc. dba "Pearl's Café" for a Class "I" liquor license at 311 North 8th Street, Lincoln, Nebraska, for the license period ending April 30, 2001, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

MAN. APP. OF JEFFERY DEAN AULD FOR PEARL'S, INC. DBA "PEARL'S CAFÉ" AT 311 NORTH 8TH STREET - DEPUTY CLERK read the following resolution, introduced by Jon camp, who moved its adoption for approval:

A-80531 WHEREAS, Pearl's Inc. dba "Pearl's Café" located at 311 North 8th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Jeffery Dean Auld be named manager;

WHEREAS, Jeffery Dean Auld appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Jeffery Dean Auld be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

APPROVING AN EXTENSION OF THE CONTRACT FOR THE OPERATION OF A KENO TYPE LOTTERY BETWEEN THE CITY OF LINCOLN & LINCOLN'S BIG RED LOTTERY SERVICES LTD. - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-80532 WHEREAS, the City of Lincoln entered into a non-exclusive contract with Lincoln's Big Red Keno, Ltd. (now known as Lincoln's Big Red Lottery Services Ltd.) a Nebraska limited partnership, for the operation of keno type lottery on behalf of the City of Lincoln and the County of Lancaster, dated March 10, 1993; and

WHEREAS, the City Council, on December 4, 1995, exercised its right of renewal for an additional five-year term for the operation of a keno type lottery on behalf of the City of Lincoln and the County of Lancaster commencing March 10, 1998 and extending through March 9, 2003; and

WHEREAS, Section 28 of the contract between Lincoln's Big Red Keno, Ltd. and the City of Lincoln provides that: "The City shall have the right, through its City Council, to renew this contract for one additional term of not to exceed five years. Such renewal shall be effective by passage of a resolution by the City Council exercising such right of renewal and giving operator notice of such action by the City Council at least 30 days before expiration of the original term." Thereafter, the

parties may mutually agree to additional extensions to the term; and

WHEREAS, Lincoln's Big Red Lottery Services Ltd. has requested an additional renewal for its contract for the operation of a keno type lottery within the City of Lincoln and the County of Lancaster; and

WHEREAS, the City Council is now desirous of mutually agreeing to such extension renewal for an additional term of five years.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

The City Council does hereby mutually agree with Lincoln's Big Red Lottery Services Ltd. to extend the term of its contract, attached hereto marked as Attachment "A", for the operation of a keno type lottery on behalf of the City of Lincoln and the County of Lancaster for an additional term of five years commencing on March 10, 2003 and terminating on March 9, 2008 without further extensions of the term of said contract unless mutually agreed to by the parties.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit one copy of this resolution to Lincoln's Big Red Lottery Services Ltd. c/o William F. Harvey, Attorney at Law, 11248 John Galt Blvd., Omaha, NE 68137; one copy to the City's Finance Director; and one copy to Steve Schatz, Charitable Gaming Division, Nebraska Department of Revenue, P.O. Box 94818, Lincoln, NE 68509-4818.

Introduced by Annette McRoy

Seconded by Seng & carried by the following vote: AYES: Cook, McRoy, Seng, Shoecraft; NAYS: Camp, Fortenberry; ABSENT: Johnson.

WAIVING THE REQUIREMENT OF THE DESIGN STANDARDS FOR THE SURFACING OF A PARKING LOT FOR A CHURCH LOCATED AT W. "A" ST. & HOMESTEAD EXPRESSWAY - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-80534 WHEREAS, Calvary Baptist Church has requested a waiver of the surfacing requirements for a new church parking lot located on property generally located at West "A" Street and Homestead Expressway and legally described as:

Lot 222 of Irregular Tracts located in the Northwest Quarter of Section 34, Township 10 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska;

WHEREAS, the City Council finds that:

- a) The parking lot for which the waiver of the surfacing requirement is requested is to be used in conjunction with a nonprofit religious institution;
- b) Alternate materials or techniques shall be utilized which provide reasonable control of dust, runoff, and safe circulation; and
- c) The location of the parking lot is sufficient distance from surrounding uses that it will not adversely affect the surrounding uses, and the frequency of use of the parking lot is so low that compliance with the surfacing requirements at the present time would cause undue economic hardship upon the owner as compared with minimal impact upon the surrounding land uses.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

In consideration of the findings made above, the requirement for the paving of the parking lot for Calvary Baptist Church located at 1125 West "A" Street on property legally described above is hereby waived pursuant to § 27.67.100(c) of the Lincoln Municipal Code under the following conditions:

- 1) The driveway approach be surfaced in compliance with Driveway Design Standards.
- 2) If it is later found that dust or noise, created by the use of the parking lot exceeds the maximum levels set forth in Title 8 of the Lincoln Municipal Code, then such waiver may, after notice and hearing by the City Council, be revoked.
- 3) This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

Introduced by Annette McRoy

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

APPROVING AN AGRMT. BETWEEN THE CITY & THE STATE DEPT. OF ROADS FOR THE FUNDING OF THE E. "O" ST. WIDENING PROJECT, 52ND ST. TO WEDGEWOOD DR. - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-80535 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for the East "O" Street widening project, from 52nd Street to Wedgewood Drive, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.  
The City Clerk is directed to return the executed copies of the Agreement to the Department of Public Works, for transmittal and execution by the State Department of Roads.

Introduced by Annette McRoy

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

ASSESSMENT RESOLUTIONS FOR DOWNTOWN MAINTENANCE DISTRICT, DOWNTOWN BUSINESS \*\*\*\*  
IMPROVEMENT DISTRICT & CORE BUSINESS IMPROVEMENT DISTRICT OVERLAY FOR BOARD OF EQUALIZATION, MON., NOV. 20, 2000, AT 10:00 A.M. - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
that the cost of providing for the development of public activities and the promotion of public events in the Downtown Business Improvement District including management and promotion and advocacy of retail trade activities or other promotional activities in the district area; enhancement of the enforcement of parking regulations and the provision of security within the district area; the improvement of parking availability; the provision of physical improvements for decoration and security purposes; the maintenance, repair, and reconstruction of improvements of other facilities authorized by the Business Improvement District Act not otherwise subject to maintenance, repair, or reconstruction under or within another business improvement district; any other projects or undertakings for the benefit of the public facilities in the district area; the employment of or contracting for personnel including administrators, to provide for any service as may be necessary or proper to carry out the purposes of the Business Improvements District Act and cost incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of the Downtown Business Improvement District", and made a part hereof; that the cost of said public activities and promotion of public events is the sum of \$240,143.65; that the property set forth in the proposed Distribution of Assessment is specially benefitted by such activities and improvement; that each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said activities and improvements; that the cost of said activities and improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of the Downtown Business Improvement District.

BE IT FURTHER RESOLVED that the City Clerk be and he is hereby directed to record this resolution in the minutes of the City Council with the vote thereon by yeas and nays.

AND BE IT FURTHER RESOLVED that the City Council sit as Board of Equalization for the purpose of equalizing said assessments on the 20th day of November, 2000 at 10:00 a.m. with adjournments from day to day until the work of equalizing said assessments shall be completed.

Introduced by Annette McRoy

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

#### ORDINANCES - 1ST & 2ND READING

CHANGE OF ZONE 3204 - APPLICATION OF PLANNING DIRECTOR FOR A CHANGE OF ZONE FROM P PUBLIC USE TO R-3 RESIDENTIAL AND FROM R-3 RESIDENTIAL TO P PUBLIC USE ON PROPERTY GENERALLY LOCATED AT NORTH 84TH AND HOLDREGE STREETS - DEPUTY CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established

and shown thereon, the first time.

CHANGE OF ZONE 3287 - APPLICATION OF LINCOLN LAND & MORTGAGE COMPANY FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL TO R-1 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT SOUTH 73RD STREET AND THOMASBROOK LANE - DEPUTY CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

VACATING A PORTION OF SOUTH 16TH STREET IN NEAR VAVRINA BOULEVARD LOCATED IN VAVRINA MEADOWS - DEPUTY CLERK read an ordinance, introduced by Annette McRoy, vacating a portion of South 16th Street in Vavrina Meadows, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

VACATING A PORTION OF PINE LAKE ROAD FROM THE WEST LINE OF LAZY ACRES SUBDIVISION WEST TO THE RAILROAD RIGHT-OF-WAY, GENERALLY LOCATED WEST OF SOUTH 14TH STREET AND PINE LAKE ROAD - DEPUTY CLERK read an ordinance, introduced by Annette McRoy, vacating Pine Lake Road from the west line of Lazy Acres Subdivision west to the railroad right-of-way, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

APPROVING AN EXTENSION OF THE CABLE TELEVISION FRANCHISE BETWEEN THE CITY & AOL/TIME WARNER FOR AN ADDITIONAL 60 DAYS BEYOND THE EXTENDED FRANCHISE EXPIRATION DATE OF NOV. 15, 2000 - DEPUTY CLERK Read an ordinance, introduced by Jeff Fortenberry, approving an extension of the cable television franchise between the City & AOL/Time Warner for an additional 60 days beyond the extended franchise expiration date of Nov. 15, 2000, the second time. (**See Council Action under "ORDINANCES - 3RD READING".**)

#### PENDING LIST -

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROX. 45 ACRES OF PROPERTY GENERALLY LOCATED AT S. 14TH ST. & MOCKINGBIRD LANE NORTH - DEPUTY CLERK requested to remove Bill No. 99-93 from Pending for Public Hearing & Action on 11/20/00.

SENG So moved.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

AMENDING THE 1994 LINCOLN-LANCASTER COUNTY COMP. PLAN TO ADOPT THE BOULEVARD CONCEPT FOR PUBLIC WAY CORRIDORS & TO INCORPORATE THE LINCOLN FRINGE AREA PRIMARY PUBLIC WAY CORRIDOR STUDY BY REFERENCE - DEPUTY CLERK requested to remove Bill No. 00R-301 from Pending for Public Hearing & Action on 11/20/00.

SENG So moved.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

ADOPTING THE LINCOLN ELECTRIC SYSTEM ANNUAL OPERATING & CAPITAL IMPROVEMENTS BUDGET FOR CALENDAR YEAR 2001 - DEPUTY CLERK requested to remove Bill No. 00R-302 from Pending for Action only on 11/20/00.

SENG So moved.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

CAMP Moved to extend the Pending List for 1 week.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

#### UPCOMING RESOLUTIONS

HEARING DATE OF MON., NOV. 20, 2000, AT 10:00 A.M. ON THE BOARD OF EQUALIZATION MEETING FOR DOWNTOWN MAINTENANCE DIST., DOWNTOWN BUSINESS DIST., & CORE BUSINESS IMPROVEMENT DISTRICT OVERLAY - DEPUTY CLERK requested approval of Hearing Date of Nov. 20, 2000 at 10:00 a.m.

SENG So moved.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

CAMP            Moved to approve the resolutions to have Public Hearing on Nov. 20, 2000.  
                  Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.

ADJOURNMENT

2:21 P.M.

CAMP            Moved to adjourn the City Council Meeting of Nov. 13, 2000.  
                  Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Johnson.  
  
                  So ordered.

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Joan E. Ross, Deputy City Clerk

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Judy Roscoe, Office Assistant III

